

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Petition for Declaratory Ruling:)	
Lawfulness of Incumbent Local)	CC Docket No. 01-92
Exchange Carrier Wireless)	
Termination Tariffs)	

**REPLY COMMENTS OF
MINNESOTA INDEPENDENT COALITION**

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November 1, 2002

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The Minnesota Independent Coalition (“MIC”), a group of approximately 80 rural telephone companies¹ providing local exchange service in Minnesota, submits the following Reply Comments in the above-captioned proceeding.

The MIC urges the Commission not to categorically dismiss the potential utility of State tariff filings by incumbent local exchange carriers or competitive local exchange carriers (collectively referred to as “LECs”). Such filings can address the terms of interconnection with commercial mobile radio service (“CMRS”) providers, when there is no negotiated or arbitrated interconnection agreement.

Each of the specific complaints raised by certain commenter in this proceeding, criticizing the terms of State tariff filings, can be, and in all probability are being, addressed by the State commissions with which the tariff filings were made. There is no reason to believe that

¹ 47 U.S.C. § 153(37).

a State commission cannot, as appropriate and merited under the circumstances of a particular tariff filing, address each alleged deficiency in the filing.

Some commenters also fail to recognize that a CMRS provider always has the right, under 47 USC sections 251 and 252, to require a LEC to negotiate and/or arbitrate the terms of an interconnection agreement.² No tariff filing will supercede or supplant that right.

Until and unless there is an interconnection agreement in place, LECs should be allowed to file tariffs which establish terms for interconnection with CMRS providers. The MIC agrees that these terms should be reasonable and nondiscriminatory, and in compliance with other federal and State mandates controlling the relationship between LECs and CMRS providers. Tariff filings which do not meet those legal obligations should fairly be challenged, not because the filing was made but because the particular terms are noncompliant.

Finally, contrary to the assertions of some commenters, such a tariff filing by a LEC is neither unlawful nor constitute bad faith, as a matter of law.³ As the MIC noted in its Initial Comments, this Commission recognized that a determination of “bad faith” is based on specific facts, and identifiable only on a case-by-case basis.⁴ State commissions are in the best possible position to make such a case-by-case determination, when and if they address particular LEC tariff filings which are challenged by a CMRS provider or coalition of providers.

² See Comments of the Cellular Telecommunications & Internet Association, October 18, 2002; Comments of United States Cellular Corporation, October 18, 2002; Comments of the Rural Cellular Association and The Rural Telecommunications Group, October 18, 2002.

³ See Comments of the Cellular Telecommunications & Internet Association, October 18, 2002; Comments of United States Cellular Corporation, October 18, 2002; Comments of the Rural Cellular Association and The Rural Telecommunications Group, October 18, 2002.

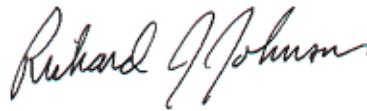
⁴ *Third Radio Common Carrier Order*, 4 FCC Rcd 2369 (1989)

For the reasons set forth above and in the MIC's Initial Comments, the Commission should dismiss the Petition and permit state commissions to continue to address any issues raised by CMRS providers with respect to LEC wireless interconnection tariff filings.

Dated: November 1, 2002.

Respectfully submitted,

MOSS & BARNETT
A Professional Association

A handwritten signature in cursive script, reading "Richard J. Johnson".

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CERTIFICATE OF SERVICE

I, Kim R. Manney, do hereby certify that, on this 1st day of November, 2002, I have caused the foregoing "Reply Comments of Minnesota Independent Coalition" in CC Docket No. 01-92 to be filed electronically with the FCC by using its Electronic Comment Filing System, and copies of the Initial Comments were served by first-class U.S. mail, postage prepaid, on the following parties:

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/s/ Kim R. Manney

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